

Release
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**SUMMARY OF CASES ACCEPTED
DURING THE WEEK OF FEBRUARY 22, 1999**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#99-21 People v. Aguayo S071483. (C024983.) Unpublished opinion.
Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses

#99-22 People v. Lawrence, S070271. (B110417.) Unpublished opinion.
Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses but remanded for resentencing.

Aguayo and Lawrence both include an issue concerning the meaning of the phrase “same set of operative facts” for purposes of determining whether consecutive sentencing is mandatory under the three strikes law. (See Pen. Code, § 667(c)(6).)

#99-23 People v. Baltazar, S075450. (B114019.) Unpublished opinion.
Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses.

#99-24 People v. Parker, S074831. (B119466; 67 Cal.App.4th 200, mod. 67 Cal.App.4th 1291a.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses.

Baltazar and Parker both concern whether a Court of Appeal may decline to consider a claim the trial court failed to impose a mandatory fine when the People have not first sought correction in the trial court.

#99-25 Driss v. State Medical Board, S075575. (C029353.) No opinion. Petition for review after the Court of Appeal dismissed an appeal from an order denying a petition for administrative mandate. This case presents an issue, concerning whether the Legislature may limit review of a superior court judgment upholding the administrative revocation of a medical license to review in the Court of Appeal by extraordinary writ, which is related to an issue before the court in Leone v. Medical Board, S065485. (#97-201.)

#99-26 Gossai v. Governing Bd. of the Victoria Valley Community College Dist., S075992. (E020952.) Petition for review after the Court of Appeal affirmed the judgment in an administrative mandamus proceeding. This case presents an issue, concerning the burden of proof in an administrative mandate proceeding involving a vested right, which is related to an issue before the court in Fukuda v. City of Angels Camp, S071467. (See #98-110.)

#99-27 People v. Montes, S075759. (B117195; 67 Cal.App.4th 1372, mod. 69 Cal.App.4th 909a.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses.

#99-28 People v. Murphy, S075263. (C025452; 67 Cal.App.4th 1205.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses but remanded for resentencing.

Montes and Murphy both present the issue whether non-forcible sexual offenses against minors under 14 constitute strikes. (See Pen. Code,

§ 1192.7(c)(6).) Murphy, which has been designated the lead case, presents further issues concerning the interplay between the three strikes law and recidivist sex offender sentencing under Penal Code section 667.71.

#99-29 People v. Nguyen, S075300. (G020280; 67 Cal.App.4th 1241, mod. 68 Cal.App.4th 1283d.) Petitions for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. This case includes an issue concerning whether a robbery is committed against a visitor on the premises at which property was taken from others but from whose person no property was taken.

#99-30 People v. Scott, S075510. (D028407, D029874, D030623.) Unpublished opinion. Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense and denied a petition for writ of habeas corpus. This case presents an issue, concerning the circumstances under which a non-citizen defendant may obtain vacation of a conviction based upon guilty plea following purported non-compliance with Penal Code section 1016.5, which is related to an issue before the court in People v. Superior Court (Zumudio), S073031. (See #98-158.)

#99-31 Syntex Corp. v. Lowsly-Williams & Companies, S075573. (A076964; 67 Cal.App.4th 871, mod. 68 Cal.App.4th 986d.) Petition for review after the Court of Appeal reversed the judgment in an action for declaratory relief and indemnity. This case includes issues concerning whether 1) the spraying of toxic waste comes within a “sudden and accidental” exception to the pollution exclusion of a comprehensive general liability policy, 2) whether the knowledge of an employee can be imputed to a corporate employer for purposes of determining whether property damage was “expected or intended” by the corporation for insurance coverage purposes, and 3) whether the collective knowledge of employees may be so considered.

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